

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

OSMIN GONZALEZ SEGOVIA,

CORIN RUIZ,

Plaintiffs,

v.

**MERRICK B. GARLAND, Attorney
General of the United States;
ALEJANDRO MAYORKAS, Secretary,
Department of Homeland Security;
UR MENDOZA JADDOU, Director,
U.S. Citizenship and Immigration
Services, and LOREN K. MILLER,
U.S. Citizenship and Immigration
Services, Nebraska Service Center
Director,**

Defendants.

**COMPLAINT FOR
WRIT OF MANDAMUS**

Civil Action No.

COMPLAINT FOR WRIT OF MANDAMUS

To the Honorable Judges of Said Court:

Plaintiffs, Osmín González Segovia and Corin Ruiz, through undersigned counsel, allege as follows:

INTRODUCTION

1. This is a civil action brought pursuant to 28 U.S.C. § 1361, 8 U.S.C. § 1329, and 28 U.S.C. § 1331, to redress the deprivation of rights, privileges and immunities secured to Plaintiffs and to compel Defendants to perform a duty Defendants owe to Plaintiffs. Jurisdiction is also conferred by 5 U.S.C. § 704.
2. This action is brought to compel Defendants and those acting under them to take action on Form I-601A, Application for Provisional Unlawful Presence Waiver (I-601A application), pending since October 11, 2021.
3. On June 23, 2021, the U.S. Citizenship and Immigration Services (“USCIS”) approved Form I-130, Petition for Alien Relative, submitted on behalf of Plaintiff Osmin Gonzalez Segovia by his U.S. citizen spouse, Plaintiff Corin Ruiz. With this approved Petition, Plaintiff Osmin Gonzalez Segovia is now eligible to apply for an immigrant visa at the U.S. Consulate in San Salvador, El Salvador. However, Plaintiff must first wait for the adjudication of his I-601A application, which has been pending since October 11, 2021, before moving forward with his immigrant visa application.
4. Plaintiffs Osmin Gonzalez Segovia and Corin Ruiz are prejudiced by the undue delay in the processing of Plaintiff Osmin Gonzalez Segovia’s I-601A

Application. Plaintiff Osmin Gonzalez Segovia has established his home and community here in the United States. Plaintiff resides with his U.S. citizen spouse, his two U.S. citizen biological children, and his U.S. citizen stepdaughter. Plaintiff Osmin Gonzalez Segovia also currently runs his own drywall and finishing business, and his family depends entirely on his business for financial support. Plaintiff Osmin Gonzalez Segovia's spouse, Plaintiff Corin Ruiz, relies heavily on Plaintiff's Osmin Gonzalez Segovia's income in order to devote most of her time to family responsibilities. The career and educational opportunities, access to adequate healthcare, and safety of not only Plaintiff Osmin Gonzalez Segovia, but his entire family, depend upon the adjudication of his I-601A application. Plaintiff Corin Ruiz is the U.S. citizen petitioning spouse in Plaintiff Osmin Gonzalez Segovia's I-130 petition and qualifying relative in Plaintiff Osmin Gonzalez Segovia's I-601A application. Plaintiff Corin Ruiz is experiencing mental and emotional harm due to the undue delay in the processing of her husband's, Plaintiff Osmin Gonzalez Segovia, I-601A application. USCIS has acted in bad faith in refusing to adjudicate the I-601A application in a timely manner. These actions have exacted grief, hardship, and other injuries flowing from a deprivation of lawful permanent resident status. USCIS knows that because

of its failure to adjudicate the I-601A application, Plaintiff Osmin Gonzalez Segovia may be forced to relocate to El Salvador and either be separated from his U.S. citizen spouse and children or have his U.S. citizen spouse and children relocate with him to El Salvador, exposing them to dangerous and impoverished living conditions. Additionally, USCIS knows that because of its failure to adjudicate the I-601A application, Plaintiff Osmin Gonzalez Segovia will continue to be deprived of the opportunity to pursue permanent resident status.

5. This action arises under the Immigration and Nationality Act of 1952 (“INA”), 8 U.S.C. § 1255, and 8 U.S.C. § 1254. Plaintiff Osmin Gonzalez Segovia is eligible to have his application adjudicated because he is eligible for the relief sought, and the application has been pending for a year and a half.
6. Defendants, DHS and USCIS, are charged by law with the statutory obligation to adjudicate the I-601A application.

JURISDICTION AND VENUE

7. This action arises under the Immigration and Nationality Act of 1952 (“INA”), 8 U.S.C. § 1255, and 8 U.S.C. § 1254. This Court has jurisdiction over this action under 28 U.S.C. § 1331 (federal question), the INA, the

Administrative Procedure Act, 5 U.S.C. § 701 et seq., and the Mandamus Act, 28 U.S.C. § 1361. Venue is proper in this Court under 28 U.S.C. §1391(e), because Plaintiff Osmin Gonzalez Segovia resides in this district and no real property is involved in this action.

DEFENDANTS

8. Defendant, Merrick B. Garland, is sued in his official capacity as the United States Attorney General. As Attorney General, Mr. Garland is responsible for the administration and enforcement of the immigration laws of the United States.
9. Defendant, Mr. Alejandro Mayorkas, is sued in his official capacity as Secretary of DHS. As Secretary of DHS, Mr. Mayorkas is responsible for the administration and enforcement of the immigration laws of the United States.
10. Defendant, Mrs. Ur. Jaddou, is sued in her official capacity as Director of USCIS. As Director of USCIS, Mrs. Jaddou is responsible for the overall administration of USCIS and the implementation of the immigration laws of the United States.
11. Defendant, Ms. Loren K. Miller, is sued in her official capacity as the USCIS Nebraska Service Center Director. As Director Ms. Miller is

responsible for the administration of the Nebraska Service Center and the adjudication of I-601A applications.

FACTS

12. Plaintiff Osmin Gonzalez Segovia is a native and citizen of El Salvador, born in San Miguel, El Salvador on April 20th, 1983. He last entered the United States in the year 2003 and has remained ever since. Plaintiff Osmin Gonzalez Segovia currently lives in Marietta, Georgia with his U.S. citizen spouse, Plaintiff Corin Ruiz, and U.S. citizen children, Elizabeth Nayeli Menendez, Osmin Emiliano Ruiz, and Jimena Gonzalez. Plaintiff Osmin Gonzalez Segovia also runs his own drywall business. Once Plaintiff Osmin Gonzalez Segovia's pending I-601A Application is approved, he would be immediately eligible to pursue an immigrant visa and obtain lawful permanent residence.

13. Plaintiff Corin Ruiz is a citizen of the United States, born in Oak Lawn, Illinois on December 27th, 1990. She is the petitioning spouse in Plaintiff Osmin Gonzalez Segovia's approved I-130 Petition and the qualifying relative in his pending I-601A Application. Exhibit A, I-130 Approval Notice.

14. On October 11, 2021, Plaintiff Osmin Gonzalez Segovia filed an I-601A

Application before the U.S. Citizenship and Immigration Services. Exhibit B, I-601A Receipt Notice filed by Plaintiff Osmin Gonzalez Segovia.

15. USCIS has not requested for Plaintiff Osmin Gonzalez Segovia to provide additional information concerning his eligibility for his pending I-601A application.

16. On February 6, 2023, Plaintiff Osmin Gonzalez Segovia submitted a congressional inquiry with Senator Raphael Warnock's office to inquire on the I-601A Application as USCIS processing times for I-601A applications had increased substantially since the Plaintiff's application was submitted. Exhibit C, Plaintiff Osmin Gonzalez Segovia's inquiry with Senator Raphael Warnock's Office.

17. On February 28, 2023, USCIS responded to Plaintiff Osmin's congressional inquiry and stated that they are "unable to determine the date on which [Plaintiff Osmin Gonzalez Segovia's] case will be assigned to an adjudications officer and when a USCIS decision or other notice of action will be issued." Exhibit D, Email containing USCIS's response to Congressional Inquiry.

18. In October 2021, when Plaintiff's application was filed, the USCIS online processing times for I-601A applications was less than two years, from the

time of filing, to be adjudicated.

19. Currently, USCIS online processing times for I-601A applications pending before the Nebraska Service Center are 36 months. Exhibit E, USCIS' Case Processing Times for I-601A applications.

20. Defendants' refusal to adjudicate the I-601A application has caused and will further cause Plaintiffs great hardship. Plaintiff Osmin Gonzalez Segovia is unable to seek work authorization while his I-601A application is pending, and Plaintiff Corin Ruiz, along with the Plaintiffs' children, depend entirely on Plaintiff Osmin for financial support. Plaintiff Osmin's ability to obtain lawful permanent resident status and continue to provide for his U.S. citizen spouse and U.S. citizen children depends upon the adjudication of the I-601A Application.

EXHAUSTION

21. Plaintiffs have exhausted all administrative remedies that may exist.

CLAIMS

22. Plaintiffs re-allege and incorporate by reference, as if fully set forth herein, the allegations in paragraph 1-21 above.

23. Defendants' failure to adjudicate and approve Plaintiff Osmin Gonzalez Segovia's I-601A Application constitutes an unreasonable failure to act in

violation of the Administrative Procedures Act and it denies Plaintiffs due process and equal protection of the laws guaranteed by the Fifth Amendment of the United States Constitution.

24. Plaintiffs have a clear right to the relief requested; Defendants have a clear duty pursuant to the Immigration and Nationality Act to adjudicate Plaintiff Osmin Gonzalez Segovia's I-601A application; and there is no other remedy available.

PRAYER FOR RELIEF

The Plaintiffs request the Court to grant the following relief:

- A. Compel Defendants and those acting under them to perform their duty to approve Plaintiff Osmin Gonzalez Segovia's I-601A application on or before 60 days from the filing of this complaint, or within a reasonable period of time determined by this Court;
- B. Retain jurisdiction during the adjudication of the I-601A Application in order to ensure compliance with the Court's order;
- C. Award reasonable costs and attorney's fees; and
- D. Grant such relief as the Court may deem just and proper under the circumstances.

RESPECTFULLY SUBMITTED this 5th day of April 2023.

ZAMBRANO AND RUIZ LLC,

/s/ Alexis Ruiz

Alexis Ruiz

GA Bar Number: 419757

1995 N. Park Pl, Suite 240

Atlanta, GA 30339

Phone: 770-769-5822

Fax: 770-769-5810

aruiz@zambranoandruiz.com

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

This is to certify that on this 5th day of April, 2023, the foregoing **COMPLAINT FOR WRIT OF MANDAMUS** and its accompanying Exhibits were served by certified mail on:

Merrick B. Garland
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Alejandro Mayorkas
Secretary, Department of Homeland Security
425 I Street
Washington, D.C. 20536

Ur. Jaddou, Director
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue, NW
Washington, DC 20529

Loren K. Miller
Director, Nebraska Service Center
U.S. Citizenship and Immigration Services
850 S Street
Lincoln, NE 68508

Kurt R. Erskine, Acting U.S. Attorney
Federal District Court, Northern District of Georgia
The United States Attorney's Office
Richard B. Russell Federal Building
75 Ted Turner Drive, SW, Suite 600
Atlanta, Georgia 30303-3309

ZAMBRANO AND RUIZ LLC,

/s/ Alexis Ruiz

Alexis Ruiz

GA Bar Number: 419757

1995 N. Park Pl, Suite 240

Atlanta, GA 30339

Phone: 770-769-5822

Fax: 770-769-5810

aruiz@zambranoandruiz.com

Attorney for Plaintiffs

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

OSMIN GONZALEZ SEGOVIA,)	
)	
CORIN RUIZ,)	
)	
)	
Plaintiffs,)	COMPLAINT FOR WRIT OF MANDAMUS
)	
v.)	
)	Civil Action No.
MERRICK B. GARLAND, Attorney General of the United States;)	
ALEJANDRO MAYORKAS, Secretary, Department of Homeland Security;)	
UR. JADDOU, Director, U.S. Citizenship and Immigration Services, and LOREN K. MILLER, U.S. Citizenship and Immigration Services, Nebraska Service Center, Director,)	
)	
)	
Defendants.)	
)	

LIST OF EXHIBITS

- Exhibit A** I-130 Approval Notice dated June 23, 2021
- Exhibit B** I-601A Receipt Notice filed by Plaintiff Osmín González Segovia dated October 11, 2021
- Exhibit C** Plaintiff Osmín González Segovia’s Congressional Inquiry with Senator Raphael Warnock’s Office dated February 6, 2023

Exhibit D Email containing USCIS's response to Plaintiff Osmin Gonzalez Segovia's Congressional Inquiry

Exhibit E USCIS' Case Processing Times for I-601A Applications